

Minutes of the Planning Commission meeting held on Thursday, December 4, 2008, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Tim Taylor, Chair  
Karen Daniels, Vice-Chair  
Sheri Van Bibber  
Jim Harland  
Ray Black  
Tim Tingey, Community & Economic Development Director  
Ray Christensen, Senior Planner  
G.L. Critchfield, Deputy City Attorney  
Citizens

Excused: Jeff Evans  
Kurtis Aoki

The Staff Review meeting was held from 6:00 to 6:30 p.m. The planning commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

#### APPROVAL OF MINUTES

There were no minutes for approval.

#### APPROVAL OF FINDINGS OF FACT

There were two Findings of Fact. The first was a zone change application by Murray School District. Robert Azarvand was the second applicant requesting a Conditional Use Permit and Certificate of Appropriateness. Jim Harland made a motion to approve the Findings of Fact for these two items. Seconded by Sheri Van Bibber.

A voice vote was made. The Findings of Fact were approved unanimously (5-0).

#### CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

#### MOUNTAIN VIEW REHABILITATION CENTER – 4859, 4871 and 4883 South Box Elder Street

Kenny Nichols, Dr. Keith Brieland, and John Robertson were the applicants present to represent this request. Tim Tingey reviewed the location and request for a Conditional Use Permit and Certificate of Appropriateness. He explained that the Certificate of Appropriateness is in relation to the Downtown Historic Overlay District, which primarily comprises the downtown area and contains a core area and transition area. In the transition area, any new development needs to adhere to the standards as outlined in the City Code. There is a public hearing process required for new development in this area. The intent of the Certificate of Appropriateness review within the Downtown Historic Overlay District is to secure the general purposes of this chapter and the general

plan and to ensure that the general appearance of buildings, signs, and the development of the land shall in no case impair the historic character and appearance of this area. The public hearing is to evaluate the Certificate of Appropriateness review and receive comments as to whether this proposal adheres to the guidelines for the historic character of the area. The Conditional Use Permit does not require a public hearing, but there will be an opportunity for comments. The Conditional Use Permit requires the applicant to meet the standards outlined in the City Code to ensure that the use does not negatively impact the site. The Committee's role is to ensure that the standards have been met.

The proposal pertains to property located within the Downtown Historic Overlay District and is zoned C-D-C/DHOD. Site information was presented. The building plan and parking requirements were reviewed. The main entrance will be off Box Elder Street, with parking at the rear of the building. There will be a maximum of 10 staff members on site. There are 19 parking spaces proposed. The majority of individuals coming to the facility will not have vehicles. Staff agrees that there is adequate parking. There is also a proposal for a wood fence running along the south and west property lines. There is a landscaping plan that includes additional trees on 5<sup>th</sup> Avenue and Box Elder Street between the building and street in order to break up the large building mass on these streets. The interior layout includes 20 rooms, so there will be a maximum of 20 residents at any one time. The Design Review Committee has reviewed the proposal and provided a number of recommendations. As far as the historic features, there will be hardiplank, stucco accent, and brick. There will be asphalt shingles and a back porch area. The Design Review Committee's recommendations are included in the staff report and have been incorporated into the plans. Staff recommends approval of the Conditional Use Permit and Certificate of Appropriateness.

Sheri Van Bibber stated that wood fences require maintenance and asked if the fence had to be wood because of the historic district. Tim Tingey stated that the fence is not required to be wood and that other materials could be considered. A masonry wall is not required because this property is not adjacent to residentially zoned areas. Tim Taylor asked to review the site plan that shows the view of the sight triangle. He questioned if the building would have to be moved to the south in order to accomplish the sight triangle. The builder indicated that the building would be moved 3 feet, which would still meet the setback requirements and not affect the parking.

Kenny Nichols, project architect, 5151 South 900 East, Murray, provided a sample of the exterior materials for the building. He stated that they are excited to be building in Murray, and that they realize they are in an Historic Overlay District. He also acknowledged that although they're in a commercially zoned area, there are residences in the area and they've tried to be sensitive to that as they designed the building. The building is 3500 square feet and 3 stories in height. He has moved the building 3 feet further south by decreasing the size of the back patio by 2 feet. That makes the setback off 5th Avenue 15 feet and also accomplishes the 25 foot sight triangle. In choosing materials for the building, they've tried to be respectful to the historic district and have followed the recommendations from the Design Review Committee.

Tim Taylor asked Mr. Nichols if he has reviewed the 9 conditions outlined by staff, and asked if he would be able to meet those conditions. He confirmed that he had reviewed them and would be able to meet them.

Dr. Keith Brieland, Medical Director, is currently located in Las Vegas. He did his psychiatry training in L.A. County, a two year fellowship at Mayo Clinic, and for the past 20 years he has been in private practice and working in hospitals. He is currently the Medical Director of an adolescent unit as well as an adult partial program at the largest hospital in Las Vegas. He also has experience running after school programs, non-profit programs for drug abuse, and running a rehab facility. He clarified that this program will be rehab, not detox. Anyone coming into the program has already gone through detox if they needed it. There will be no nurses or full time doctors at this site. He stated that it would be similar to the Cirque Lodge in Park City, where people come to learn lifestyle changes. The residents would be medically stable. The program is quite costly, so the he anticipates executive or higher functioning individuals as the clientele.

Tim Taylor summarized two e-mails that had been received raising questions related to this facility. The first was from Mr. Walker of Walker and Company Real Estate. He owns property on 5<sup>th</sup> Avenue and is planning to do some remodeling. He supports redevelopment in the area and would support a counseling facility, but is opposed to a housing facility for drug rehabilitation. The question was whether or not there would be overnight or extended stay units. The second e-mail was from Terry Moran and the family of Ila L. Smith. Their concerns were regarding the safety of the residents living in the surrounding area, and they asked whether or not patients will be housed at the facility. They also wanted to know if there will be 24 hour security and how the property value will be protected in regards to rental property and future resale value. They also questioned the background of the individuals that are being treated, and asked if any other locations had been considered.

Dr. Brieland responded that this is a housing facility with the usual length of stay being one or two months. The residents will be there voluntarily and are motivated to stay clean. Most of the individuals will be coming from out of state, so one of the reasons Murray was chosen was its convenient access to the International Airport. The program is very structured and will include getting out into the community by going skiing, on nature walks, and other outdoor activities. The Downtown Historic District was chosen because it is distinctive and meets the requirements for their program. As far as the safety of nearby residents, Dr. Brieland reiterated that the individuals receiving treatment will be high-functioning, executive level individuals and he doesn't foresee anyone needing protection. He explained that the 6 foot high fence is helpful because many of the program participants want privacy. Staff will be on site 24 hours a day. He stated that he believes that the facility will actually increase the property values and is a unique addition to the community. Criminals and inmates will not be admitted to the program and background checks will be performed on all participants.

Tim Taylor stated that the public hearing is regarding the Certificate of Appropriateness, which relates to the architecture of the area, not the actual use. He explained that the facility meets the zoning ordinances for that area. He then proceeded to open the public hearing as it relates to the Certificate of Appropriateness.

Marilyn Barney Barrett, 759 E. Johnsonway Drive, Sandy, stated that her mother and brother live at 4902 Box Elder Street. Her father built the home in 1963, at which time he was told by various zoning personnel that he could only maintain the one bedroom home that already existed. During construction, the home collapsed. Her father then received permission to build a three bedroom home with no basement. She stated that the zoning commission has waffled on what is historic and what isn't, and what residents can do with their property. The City has refused to allow any changes to homes in this area for 40 years, yet now they're allowing this rehabilitation facility. Ms. Barrett cited research that 97% of alcoholics will relapse. She believes that the program participants are only in treatment because they've been sent there by a police officer or judge and it doesn't matter what kind of background they have. She questioned why the City would allow a company from out of state to build something when they won't even support their own citizens.

Tim Taylor stated that the zoning ordinance was approved by the City, and that the Planning Commission's role is to ensure that the guidelines are followed. Improvements to homes can be made in accordance to zoning ordinances.

Tim Tingey stated that requirements to go through public processes for adoption of zoning ordinances are outlined in State Code, which is strictly adhered to. This was adopted in 2006 and the correct process was followed.

Tim Taylor stated that zoning changes go before the Planning Commission, which in turn recommends the changes to City Council. City Council approves the zone changes, and they also receive public comment regarding those changes. Sheri Van Bibber pointed out that ordinance information is available online as well.

Susan Wright, 4872 South Poplar Street, stated that she moved to Murray 25 years ago. She and her husband bought the Murray Mansion and restored it. They've bought all the property around the Mansion to protect it. There have previously been undesirable businesses in the area, and those have been replaced with a ballet school, ballroom, costume shop, church, and reception center. She stated that putting a rehabilitation center in the midst of these other upstanding businesses is disrespectful of the improvements the residents have made over the years. Drug addicts steal, and very few of them recover. Her own brother is a drug addict. She doesn't want these people walking through her neighborhood when there's a ballet school with 200 little girls in the same area.

DeLynn Barney, 4902 Box Elder Street, asked to review the location of the facility. He lives directly across the street from where the facility is going to be located. He stated that he and his mother will be looking directly into the front windows of the facility. He pointed out the adjacent bars and clubs and questioned why recovering alcoholics would want to be exposed to those businesses. The hospital just to the west has an outpatient pharmacy, which is easily accessible, and there is another pharmacy on 900 East and Vine Street. The schools and businesses that existed back when his father built this home are now gone. He stated that it is absurd to think that people coming in from out of state will not need a place to park. He also pointed out that when the indoor soccer facility has a game there are cars parked on both sides of the street and there is only room for one car to travel. Mr. Barney does not want a rehab facility in his front yard and

does not think it adds to the atmosphere of the historic district. He is worried about his family's safety and the safety of the young children at the soccer facility and ballet school.

Bill Wright, 4872 South Poplar Street, stated that a few weeks ago he was before the Planning Commission to praise their approval of a development on the corner of 4800 South and State Street. He stated that he thinks the property in question is not large enough for this structure and that they should find a better suited site. He voiced concern about the children at the ballet school and the risk of having past drug addicts around them and stated that he could have brought 200 parents to the meeting to prove his point. He thinks that the rehabilitation center will result in the loss of students at the ballet school, which will have a direct impact on him economically. He mentioned that he's concerned about the type of visitors that will be coming to the facility. He recommended finding a better site in a more commercial area rather than this site that is surrounded by residents and schools.

Tim Taylor stated that the citizens' comments seem to pertain to the same concerns. He invited others to make statements if they had other issues to bring up.

Eunice Montrone, 4430 West 4955 South, Kearns, was present to represent her mother, Ila Smith, that lives on the corner of 32 West 5<sup>th</sup> Avenue. Her mother lived there for more than 50 years and now resides in a nursing home. The home has become a rental property and Ms. Montrone doubts that anyone is going to be interested in renting an apartment that faces a rehab center. Many neighbors are elderly and need to be protected. She recommended looking at other sites to build the facility.

Betty Swenson, 2264 Jordan Haven Court, South Jordan, was present to represent her mother, Ila Smith. She stated that her grandson has been through two rehab centers, both out of state. One of them provided freedom to come and go and was not as successful. There was violence at the facility. She stated that the residents that live in the area should not be subjected to this type of facility because it is frightening to them. If her family is unable to rent out their mother's home she doesn't know how they will pay for her care at the nursing home.

Marilyn Barney Barrett, 759 East Johnsonway Drive, Sandy, spoke again and stated that her husband is an alcoholic that has been sober for over 16 years. Her family has experienced rehabilitation, and don't believe that this is the place for a recovery center. She brought up her concern about second-hand smoke and its dangers and stated that the resident's in the neighborhood are going to be inhaling chemicals and carbon monoxide.

Tim Taylor closed the public comment section and gave the applicant an opportunity to respond to the comments.

Dr. Brieland stated that there is a misconception that the facility will be a halfway house where participants can come and go on their own. The residents will not be allowed to go out into the community alone, they will always be supervised. They will not be walking around the neighborhood and interacting with the kids at the ballet center. He stated that it will actually be a very quiet facility and he doubts that people would even

realize it's a drug rehab unless they were told. He also advised that there are other people in the community involved in this project.

Tim Taylor recommended to Dr. Brieland that it would be beneficial for him to meet with the neighbors and clear up the misconceptions about what will actually take place at the facility.

Ray Black asked for the parking to be addressed, specifically the number of spots. He wanted to clarify that there would be adequate parking for both staff and residents.

Dr. Brieland reiterated that it is very unlikely that the patients will drive to the facility unless they live within Utah. Even if they were to drive they will not have access to their car while in the treatment center. He stated that there will be adequate parking.

Tim Tingey stated that the project meets the parking recommendations. There is not a specific outline of parking spaces noted in the Ordinances. The recommendations were based on the anticipated number of employees and residents. Staff had recommended 19 parking spaces.

Tim Taylor asked for the ratio of staff to patients. Dr. Brieland responded it is a 2 to 1 ratio, with 2 patients to every 1 staff person.

Tim Taylor clarified that there will be 10 staff people with up to 20 residents.

Jim Harland asked about the maximum number of residents at a single time. The other Committee members recalled that it was 20. He asked if 15 of the residents bring a car and there are 10 staff members how the parking will be handled.

Dr. Brieland confirmed that there will be a maximum of 20 residents, and he does not foresee the residents bringing cars.

Ms. Van Bibber recommended that a stipulation be put into the facility guidelines pertaining to vehicles.

Ray Black asked if the applicant had any response to the issue of individuals wandering through the neighborhood or visiting the local bars. Dr. Brieland responded that the resident's will not be permitted to wander on their own. He stated that if anyone visited the bar they'd be out of the program.

Tim Taylor asked if it would be possible to add any additional parking. Tim Tingey advised that they couldn't add to the parking without cutting back on the landscaping, which would make it difficult to meet the landscaping requirements. They would have to reduce the size of the building in order to add more parking.

Ray Black wanted to confirm that the Planning and Zoning staff had carefully considered the parking recommendations and were comfortable with the plans. He would support the staff's recommendations.

John Robertson stated that the parking is primarily for the staff. There is a stipulation that the residents are not to bring a vehicle to the facility, nor will they have access to them. The program is quite condensed and controlled, and includes a diet and exercise program. There will be no substance use at all. There will not be any parking issues with the patients at the facility.

Ray Black stated that he understood there would be no patient cars on the property. John Robertson confirmed that there would not. The facility has a vehicle that transports the patients from the airport, and would also be used for other outings away from the facility.

Sheri Van Bibber stated that there have been four homes sold in her neighborhood in the past week. She is not allowed to do background checks on the people buying those houses. There is rental property across the street that is owned by someone in California, so there is no control over how that property is maintained. She pointed out that the issues associated with the facility are out in the open and being dealt with. There were similar concerns four years ago with La Europa, a \$1,000,000 reception center. There were 135 residents that came out, each of them owning homes that were in the \$300,000 to \$500,000 range. They stated similar concerns as those stated at this meeting. Recently the owners of La Europa came back in to buy some additional property in the same neighborhood. The homeowners returned to thank them for the positive effects the facility has had within the neighborhood.

Jim Harland made a motion to approve a Certificate of Appropriateness for a rehabilitation treatment center, and a Conditional Use Permit, for the property at 4859 South Box Elder Street, subject to the following conditions:

1. The project design shall incorporate all of the design elements recommended by the Design Review Committee and approved by the Planning Commission.
2. The project shall meet all applicable building code standards. Applications for building permit shall be accompanied by plans stamped and sealed by appropriate design professionals.
3. The project shall meet all current fire codes.
4. A soils report from a geotechnical engineer shall be submitted at the time of building permit.
5. The building shall be adjusted on the lot to provide the required vision clearance triangle at the intersection of Box Elder and 5<sup>th</sup> Avenue.
6. Prior to occupancy, repair any damaged curb, gutter and sidewalk to the satisfaction of the City Engineer.
7. A formal landscaping plan meeting the requirements of Chapter 17.68 of the Murray Municipal Code shall be submitted with the building permit and approved by the Murray City Forester and installed as approved prior to occupancy.

8. Meet all State licensing requirements based on the type of treatment provided.
9. Prior to building permit, combine the existing parcels and provide a copy of the new recorded legal description to the Murray Community and Economic Development Department.

Mr. Harland corrected the motion to reflect properties at 4859, 4871 and 4883 South Box Elder Street.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A Mr. Harland  
A Mr. Taylor  
A Mr. Black  
A Ms. Van Bibber  
A Ms. Daniels

Motion passed, 5-0.

WASATCH C.N.G. – 5567 South Commerce Drive

Richard Burrola was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a fueling station at the property addressed 5567 South Commerce Drive. The property is located in the M-G-C zone area, which is manufacturing general conditional. There is an existing Top-It business that currently occupies the building at the east side of the property. The fueling station will be located in the center of the paved area. The compressor for the fueling station is to be located on the south side of the building. Photographs of the property were presented. Vehicles can enter and exit off Anderson Avenue (5560 South) and Commerce Drive. A few of the camper units from Top-It will be moved in order to provide adequate parking stalls, including a disabled parking stall. The property will need to be upgraded with landscaping and parking lot striping in order to meet the zoning regulations. Staff is recommending approval.

Richard Burrola, 8056 South Demerest Road, Salt Lake City, confirmed that he has reviewed the staff's recommendations. He stated that they are all reasonable except for the landscaping on the north side of the property, on Anderson Avenue. He stated they would lose 7 feet of utility of the lot to improve a road that is similar to an alley. There is an existing 3 foot area of landscaping. He stated that maintenance of landscape in that area would be counterproductive. He intends to apply to the Board of Adjustments to overcome this single issue.

Tim Taylor asked Tim Tingey if it is required for Mr. Burrola to go to the Board of Adjustment before the Planning Commission grants approval. Tim Tingey clarified that approval can be granted based on the outlined conditions and the applicant can then go before the Board of Adjustment. If they grant the variance then that condition will not have to be met and he won't have to return to the Planning Commission.



Richard Burrola stated that his goal is to add another compressed natural gas fueling station within the valley with the potential to add other services in the future.

Tim Taylor asked if the gas will be located where the compressor is shown on the plans.

Richard Burrola responded that there will be 20,000 cubic feet of gas stored in a container. He had to turn the container to face east/west instead of north/south, due to the fire departments setback requirements, which is different than is shown on the plan.

Tim Taylor asked what types of vehicles will be using this refueling service.

Richard Burrola responded that he is going to try and do fleet sales, and do conversions of fleets. This facility will be mainly for fueling fleets. Intermountain Healthcare has a few C & G shuttle busses, and he's trying to get a fueling contract with them. The price differential isn't as great as it was when he first started the project because the price of gas and oil keep dropping, but there are still economic benefits to the country as a whole, our state, the environment, and to consumers because this is a cleaner burning fuel.

Tim Taylor asked about refilling the primary tank. Richard Burrola stated that the fuel is piped in from Questar, so it is hard piped into the compressor. It is then compressed and dispensed out at a high PSI. Tim Taylor verified that there won't be refilling trucks backing in or moving through the property and Richard Burrola confirmed that there won't be refilling trucks.

Ray Black questioned if Mr. Burrola was going to use the existing sign and just change the moniker. Richard Burrola confirmed that he was going to use the sign and change it to read Wasatch C.N.G.

Jim Harland asked Mr. Burrola that if he does get a variance, if he'll maintain the area with approved landscaping. Richard Burrola confirmed that he would. He reviewed a slide that shows where there's a grass strip in the front, which is 20 feet from the curb to the lot line. The requirement is only 10 feet of grass. He would like to move the fence line out 10 feet on that grass and maintain that grass and possibly put in some rock in order to conserve water, fertilizer and to avoid burning gasoline for landscape maintenance.

Ray Black pointed out that the conditions specify that there needs to be a formal plan approved by the City Forester.

Tim Taylor asked if Richard Burrola is the property owner or if he leases the property. Richard Burrola stated that the owner is Ray Coleman. He has a lease in place with him that is pending all the necessary approvals. Tim Taylor asked if Mr. Coleman was aware of the conditions. Mr. Burrola confirmed that he is.

There were no public comments related to this item.

Jim Harland made a motion to approve a Conditional Use Permit to Wasatch C.N.G., located at 5567 South Commerce Drive, for a fueling station, subject to the following conditions:

1. Meet the requirements of the Building Official for a building permit and compliance to building and fire codes.
2. The Murray City Engineer will require repair to any sidewalk trip hazards or damage to the curb and gutter.
3. Meet all the Murray Power, Water and Sewer and Fire Department requirements.
4. A revised site plan is required with the building permit to show parking stalls shall be striped to meet parking regulations including installing one disabled stall on the site to meet ADA regulations.
5. Landscaping to be installed at the frontage of Anderson Avenue to a 10 foot depth to meet zoning ordinance regulations. A formal landscaping/sprinkler system plan shall be submitted with the building permit for approval by the City Forester and be installed as approved prior to occupancy.

Seconded by Karen Daniels.

Call vote recorded by Ray Christensen.

A Mr. Harland  
A Mr. Taylor  
A Mr. Black  
A Ms. Van Bibber  
A Ms. Daniels

Motion passed, 5-0.

#### VINE PLACE APARTMENTS – 228 East Vine Street

Darlene and Dan Morgan were the applicants present to represent this request. Ray Christensen reviewed the location and request for time extension of a Conditional Use Permit. The original Conditional Use Permit for a 6 unit apartment development was approved by the Planning Commission on February 15, 2007 for a period of two years. The ordinance does allow a one year extension, which would be until February 15, 2010. The request has been reviewed by the City departments and there were no problems with a time extension. The property is located in the R-M-15 zone. An older home is on the property, which is on the Historic Register, and there are also some sheds which would be removed in order to construct the apartment building. Floor plans were reviewed that showed 2 levels with 6 total units. Elevations were shown of the north (front) elevation and also the south side of the building.

Darlene Morgan, 228 East Vine Street, stated that she and her husband Daniel own this property. This is a small project, and it was previously sold but the banks are very tight

on construction loans right now, especially on projects of this size. The people that have made offers on the property have been unable to get financing.

Karen Daniels asked if the goal with the property was to build on it or sell it. Darlene Morgan responded that it is their goal to sell the property, which they want a contractor to do on their behalf. Initially there was a lot of interest. Karen Daniels asked why they are requesting an extension if they are going to end up selling the property. Darlene responded that it is the zoning that is of interest to the buyers, that they want to be able to build a 6 unit apartment and are not interested in the existing home.

Tim Taylor stated that the zoning is still the same, that what was originally granted was a Conditional Use Permit for this particular project. He clarified that there won't be an extension on the zone, just the Conditional Use Permit. Darlene Morgan responded she may have a contractor build it for her, or if she sells the property to a contractor for the same building she would still need a Conditional Use Permit. She stated that all of the engineering and architecture work has been completed, and if she sold the property the plans are part of the sale, which is why she wants to keep the Conditional Use Permit. Tim Taylor agreed that if it was sold and the Conditional Use Permit had expired that the new owner would have to come in and reapply.

Tim Taylor asked the members of the audience if they had any comments related to this issue. He asked why there was such a large audience and was advised that there was a school class present. There were no public comments made related to this item.

Jim Harland made a motion to grant a one year time extension for a Conditional Use Permit for the property called Vine Street Apartments, located at 228 East Vine Street. The new time expiration date is February 15, 2010.

Seconded by Karen Daniels.

Vote call recorded by Ray Christensen.

A Mr. Harland  
A Mr. Taylor  
A Mr. Black  
A Ms. Van Bibber  
A Ms. Daniels

Motion passed, 5-0.

Meeting adjourned.

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Ray Christensen, AICP  
Senior Planner